

## CLIFFORD LAW OFFICES



Robert A. Clifford

January 8, 2016

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The Honorable Charles R. Breyer  
United States District Court  
Courtroom 6, 17<sup>th</sup> Floor  
450 Golden Gate Avenue  
San Francisco, CA 94102

**RE: *In re: Volkswagen "Clean Diesel" Marketing, Sales Practices and Products Liability Litigation; MDL 2672; Case No 3:15-md-2672 CRB***

Dear Judge Breyer:

Pursuant to PTO #2, allow this correspondence to serve as the application for the appointment of Robert A. Clifford (Clifford Law Offices, Chicago, Illinois) to the Plaintiffs' Executive Committee. Without question, this case has resulted in an assembly of some of the finest plaintiffs' lawyers in the Country. For more than thirty years, I have worked in a wide range of cases alongside many of the lawyers (both amongst plaintiff and defense counsel), including most of the plaintiffs' lawyers seeking leadership appointments. I would be privileged to work amongst the lawyers in this litigation, and hereby seek this Court's appointment as an Executive Committee member.

My experience in handling class actions and the types of claims asserted in this case, as well as other complex litigation, strongly favors my appointment to Plaintiffs' Executive Committee. I have repeatedly served as lead counsel or co-lead counsel in cases, obtaining multi-million dollar verdicts and settlements. I have served in the leadership structure of a number of complex litigation lawsuits over the past three decades including multi-district and class cases ranging from large commercial aircraft crashes to food misbranding cases, data breaches and unauthorized disclosures of patients' medical data. I have attained several large verdicts and settlements in cases against auto manufacturers. One of my most distinguished accomplishments was serving as liaison counsel for all of the interests that lost property after the al Qaeda terrorists' attacks in New York on September 11, 2001. Numerous lawsuits were filed against American Airlines and United Airlines for their multiple failures in properly screening the terrorists who eventually boarded these flights. These complex suits were brought on behalf of insurance companies and business interests from around the globe. The cases settled in 2012 for \$1.2 billion. In that case, I worked alongside Kenneth Feinberg, who has been retained by Volkswagen in this case.

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I served as liaison counsel or lead counsel in several commercial jet crashes including, amongst others, Continental Connection Flight 3407 that crashed near Buffalo, New York, killing 50 people on February 12, 2009; the American Eagle crash of Flight 4184 in 1994; the Alaska Air crash of Flight 261 in 2000; and the crash of Comair Flight 5191 in Lexington, Kentucky, that crashed on August, 2006. I've represented victims' families from all over the world. I presently serve as lead counsel in a data breach class action filed against Advocate Medical Group, Illinois' largest healthcare system. I am also engaged in the complex international class litigation relating to the collapse of the Mt. Gox Bitcoin Exchange, and serve as co-chair of the United States Settlement Committee.

Additionally, I serve as lead counsel in a class action filed against Pella Windows Corporation. The Pella Windows class action was filed in 2006 and has been a hotly contested litigation since that time. On September 12, 2014, Judge James B. Zagel appointed me "as class counsel for [my] demonstrated skills in the field." More recently, the lead plaintiff in the NCAA concussion litigation retained me to represent him and advocate on his behalf, after learning of a proposed settlement that did not reflect the interests of him and other former players. I have established my reputation as the premier defender of the rights of those with small voices not heard. Because of my trial skill, I was retained by class counsel to serve as lead trial counsel in the Butler v. Sears/Kenmore Front Loading Washing Machine litigation. More recently I was appointed as co-lead counsel by Judge Darrah in the Herbal Supplement MDL. The judges before whom I have appeared in the aforementioned cases are listed in Exhibit B.

I am fully committed to this litigation and its success, and have more than adequate capital and personnel resources to vigorously prosecute this action. I am particularly committed to eliminating redundancy and waste in the prosecution of this case, with an emphasis on efficiency and collaboration in party and third-party discovery. Though I am often recognized for my trial skills, I am equally skilled in devising fair and meaningful settlements in often complex factual or legal circumstances. My work as liaison counsel for the World Trade Center 9/11 litigation is one example.

I have received many awards and accolades recognizing my professionalism and leadership. I was named as the recipient of the 2014 American Inns of Court Professionalism Award for the Seventh Circuit, selected from a national panel of members of the American Inns of Court Awards Committee that included Justices from the Supreme Courts of Delaware and Tennessee as well as from various U.S. Courts of Appeal. The award is given to a lawyer whose life and practice has demonstrated "sterling character and unquestioned integrity, coupled with ongoing dedication to the highest standards of the legal profession and the rule of law." Litigation of this size and complexity demands a lawyer with legal skill, matched with equal integrity and both personal and professional comportment.

Throughout my career, I have conducted myself so as to earn the respect of colleagues on both sides of the professional Bar. My actions to date have demonstrated that I seek to facilitate, coordinate and work cooperatively with both Plaintiffs' counsel and defense counsel. In fact, I am known amongst plaintiffs' counsel as one to host plaintiffs' counsel forums for the purpose of exchanging ideas and uniting to advance a case. Without question, I have the skill, experience, relationships and resources to make meaningful contributions to this case on behalf of consumers.

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I have and can commit resources for the prosecution of this litigation. For decades, my firm has worked to establish a national reputation for protecting consumers' and patients' rights, having been named by the National Law Journal in 2013 as one of the Top 10 Litigation Boutiques in the country. NLJ also named my firm one of the top 20 "Plaintiff's Hot List" in 2003 and in 2003 as one of the 25 "Go-To" plaintiffs' law firms in the country. This year, I was once again named to the list of 100 Most Powerful Chicagoans by *Chicago Magazine*. Martindale-Hubbell again named me among Chicago's Top Rated Lawyers of 2014, receiving the highest rating given by the peer review group. In fact, I consistently rank a perfect "5" by Martindale-Hubbell. I also had the distinction of being selected by Super Lawyers as the number one lawyer in the state of Illinois in 2014, marking the sixth consecutive year of earning this top honor. I was the 2012 Chicago Lawyer Person of the Year based upon my trial accomplishments, my contributions to the legal community and to the Chicago area.

I was named one of the Top 10 Attorneys Raised the Bar Over the Last Decade in Chicago by the Law Bulletin Publishing Company. I was featured on the cover of the inaugural 2005 issue of Illinois Super Lawyers where they called me "Chicago's Most Likable Tough Guy." The feature story headlined me as "Chicago's Most Feared Attorney – Bob Clifford is a lamb who turns into a lion when he's confronted by injustice." Corporate Legal Times selected me as one of the "five most respected and feared plaintiffs' attorneys in the country" dubbing me "the best of the bad." I compose my firm of lawyers with similar skill-level and values. We work tirelessly, making efficient use of our resources and relationships, and will do so on this case.

Many of the lawyers seeking leadership in this case have contacted me in support of their efforts. Without question, there are several lawyers qualified in many meaningful ways. As one of the counsel who are best-suited to represent the interests of the many consumers in this unique litigation, I have an unparalleled breadth of qualifications to serve as lead counsel but, in this instance, I seek appointment as an Executive Committee member. Though I wish to represent the interests of all plaintiffs and believe that the nucleus of facts causes all plaintiffs to have a requisite common denominator, my particular interests remain aligned with the consumers' claims.

As further evidence of my abilities specific to leadership, I hold positions in local, national and international professional associations, many by invitation. I was selected to advise the Rand Institute on the investigation processes of the National Transportation Safety Board. I have been asked to sit on the Rand Institute's Board of Overseers. I was elected nine years ago to serve as the Illinois State Delegate to the American Bar Association House of Delegates. I completed my third three-year term, the maximum allowed, in August 2014 at the ABA Annual Meeting in Boston.

I personally endowed the first Chair on Tort Law and Social Policy to my alma mater, De Paul University College of Law. Founded in 1994, the symposium hosts academicians from Stanford Law School to Harvard, from United States Senator John McCain to television commentator/attorney Bill Kurtis. To mark the 20th year in 2014, Associate Justice Stephen Breyer of the Supreme Court of the United States taped a special address to the group honoring U.S. District Court Judge Jack Weinstein of New York. I share my knowledge as a frequent lecturer for various bar associations and legal groups throughout the country.



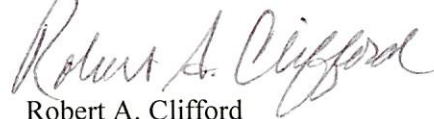
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I am a principal partner of Clifford Law Offices, a nationally recognized law firm in Chicago concentrating in aviation, transportation, personal injury, medical negligence, consumer advocacy and product liability law. (See Exhibit A, CV of Robert A. Clifford). Because of my reputation, experience, resources, and ethics, all of which have been widely recognized, I am well-suited for appointment to the Executive Committee. My prior experience in overseeing these types of cases, my proven ability to vigorously litigate and resolve complex litigation of this scope, my ability and willingness to devote the necessary resources to prosecute these types of actions, and my commitment to promoting civility and professionalism, cause me to have a proven track record of successfully bringing cases to their optimal conclusion.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Robert A. Clifford", written in a cursive style.

Robert A. Clifford

Shannon M. McNulty

Edward R. Moor

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